

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 00-CR-181

TIMOTHY CUNNINGHAM,
Defendant.

ORDER

Defendant Timothy Cunningham moves the court to suspend payment of his restitution obligation until his release from prison. The government does not oppose the motion.

I sentenced defendant to 138 months in prison, followed by four years of supervised release, and \$5396.77 in restitution. I did not order immediate payment of the restitution but rather allowed defendant to make payments under the IFRP while in prison. Upon release, I ordered him to make payments of not less than \$50 per month as a condition of supervised release.

In his motion, defendant states that he is no longer able to make the payments required under the IFRP while incarcerated because he is unable to work due to his medical condition. Under 18 U.S.C. § 3572(d)(3), the court may, upon being provided notice of any material change in the defendant's economic circumstances that might affect his ability to pay, adjust the payment schedule. Defendant has shown such a change. Therefore, I will alter the payment schedule to suspend the requirement that he make payments towards his restitution while incarcerated. Payment shall re-commence upon

defendant's release from prison as a condition of supervised release and at a rate of not less than \$50 per month. The government, probation office or defendant may move the court to further adjust this schedule upon review of defendant's financial condition after his release.

THEREFORE, IT IS ORDERED that defendant's motion (Docket # 62) is **GRANTED**, and payment of defendant's restitution is **SUSPENDED** during his period of incarceration.

Dated at Milwaukee, Wisconsin, this 21st day of September, 2006.

/s Lynn Adelman

LYNN ADELMAN
District Judge